IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9660 OF 2004

M/s.Shinde Constructions & anr. ..Petitioners.

Vs.

Sneh Vrind Co-operative Housing

Society Ltd. & Ors. ..Respondents.

....

Mr.R.N.Shah for the Petitioners.

Mr.A.B.Avhad for Respondent No.1.

Mr.M.H.Solkar, AGP for the State.

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CORAM : DR.D.Y.CHANDRACHUD, J.

12th April, 2005.

P.C. :

An ex parte decree has been passed by the Civil Judge, Junior Division, Pune on 14th March, 2003. The Petitioners failed to file a written statement or to appear in the Trial Court after 2003. The Trial Court has noted that the Respondent is a co-operative society consisting of 49 members and that under Section 11 of the Maharashtra Ownership of Flats Act, the

promoter-builder (the Petitioners herein) would be required to carry out all the obligations including the execution of the conveyance deed in favour of the society. The finding of the Trial Court is that there has been a failure on the part of the Petitioners to comply with those obligations and to complete the unfinished work. An appeal has been filed by the Petitioners against the ex parte decree. There was a delay of 11 months in filing the appeal and it was only appropriate and proper that the application for condonation of delay should be heard and disposed of as expeditiously as possible. If delay is not condoned, there would be then no occasion for the Appellate Court to even entertain an application for the grant of an order of stay on the ex parte decree. The Petitioners pressed an application for stay which was rejected by the impugned order dated 21st October, 2004. The Petitioners would be at liberty to move the Appellate Court for the early hearing of the application for condonation of delay and for necessary orders on the application for stay in the event delay is condoned. The Petition is accordingly disposed of.